

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 RAPHAEL RUSSELL, *et al.*,)
8 Plaintiffs,) CASE NO. C17-0698 RSM
9 v.) ORDER OF DISMISSAL
10 MYONG SUK MUELLER SONG, *et al.*,)
11 Defendants.)
12)
13)

14 *Pro Se* Plaintiffs Raphael Russell, Lashaunda Russell, and Erica Calcote¹ filed a
15 Complaint on March 24, 2017. Dkt. #7. After review of that Complaint, the Court noted several
16 deficiencies and directed Plaintiffs to file an Amended Complaint. Dkt. #10. On June 16, 2017,
17 Plaintiffs filed an Amended Complaint. Dkt. #13. From what this Court can discern, Plaintiffs
18 allege claims arising from a property dispute. Mr. Russell complains that Defendants hit his
19 power line and cut his phone line while grading property with a bulldozer. Dkt. #13 at ¶ 2. Mr.
20 Russell further claims that Defendants trespassed on his property, damaged his phone lines and
21 removed dirt worth \$73,000. *Id.* at ¶¶ 1-3. As a result, Plaintiffs seek an Order from this Court
22 directing Defendants to replace the damaged power and phone lines, pay for the dirt removed
23 from the property, and pay for other damages. Dkt. #13.
24
25
26
27
28

¹ Ms. Calcote has since been voluntarily dismissed from this case. Dkt. #10.

1 Defendants have moved for dismissal for lack of jurisdiction under Federal Rules of Civil
2 Procedure 12(b)(1). Dkt. #15. Defendants argue that Plaintiffs fail to demonstrate any basis for
3 federal jurisdiction. The Court agrees.

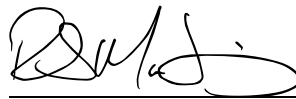
4 This Court previously informed Plaintiffs that property disputes of the nature described
5 in the Amended Complaint are typically matters of state law, to be handled in a state court. Dkt.
6 #10. While Plaintiff now appears to assert diversity jurisdiction in his Amended Complaint, his
7 assertion is misplaced. Diversity jurisdiction exists “where the matter in controversy exceeds . .
8 . \$75,000 . . . and is between . . . [c]itizens of different States.” 28 U.S.C. § 1332(a)(1). Plaintiffs
9 do not demonstrate that this is a controversy between citizens of different states. Plaintiffs point
10 to alleged ethnicities and/or nationalities of the parties involved in this matter, *see* Dkt. #16 at 2,
11 but that does not satisfy the diversity statute, which speaks in terms of citizenship of a state.
12
13

14 As federal courts are courts of limited jurisdiction, a plaintiff bears the burden of
15 establishing that his case is properly filed in federal court. *Kokkonen v. Guardian Life Ins. Co.*,
16 511 U.S. 375, 377, 114 S. Ct. 1673, 1675, 128 L. Ed. 2d 391 (1994); *In re Ford Motor*
17 *Co./Citibank (South Dakota), N.A.*, 264 F.3d 952, 957 (9th Cir. 2001). This burden, at the
18 pleading stage, must be met by pleading sufficient allegations to show a proper basis for the
19 federal court to assert subject matter jurisdiction over the action. *McNutt v. General Motors*
20 *Acceptance Corp.*, 298 U.S. 178, 189, 56 S. Ct. 780, 785, 80 L. Ed. 1135 (1936). Further, the
21 Court will dismiss a Complaint at any time if the action fails to state a claim, raises frivolous or
22 malicious claims, or seeks monetary relief from a defendant who is immune from such relief.
23
24 See 28 U.S.C. § 1915(e)(2)(B). Here, Plaintiffs cannot meet the elements for diversity
25 jurisdiction.
26
27
28

1 As a result, the Court agrees with Defendants that it lacks jurisdiction over Plaintiffs'
2 claims, and this matter must be dismissed. Accordingly, the Court hereby ORDERS:

- 3 1. Defendants' Motion to Dismiss (Dkt. #15) is GRANTED.
4
5 2. This case is now CLOSED.
6
7 3. The Clerk shall send a copy of this Order to Mr. and Mrs. Russell at 14751 N. Kelsey
8 St. #105, Box 137. Monroe, WA 98272.

9 DATED this 11th day of August 2017.
10

11 
12

13 RICARDO S. MARTINEZ
14 CHIEF UNITED STATES DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28